

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]

HOUSE BILL NO. 751

95TH GENERAL ASSEMBLY

1510L.01T

2009

AN ACT

To repeal sections 414.530, 414.560, and 414.570, RSMo, and to enact in lieu thereof three new sections relating to the Missouri propane education and research act.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 414.530, 414.560, and 414.570, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 414.530, 414.560, and 414.570, to read as follows:

- 414.530. 1. The director shall conduct a referendum as soon as possible among producers and Missouri retail marketers of propane to authorize the creation of the "Missouri Propane Education and Research Council" and the levying of an assessment on odorized propane. Upon approval of those persons representing two-thirds of the total gallonage of odorized propane voted in the retail marketer class and two-thirds of all propane voted in the producer class, meaning propane sold or produced in the previous calendar year or other representative period, the director shall issue an order establishing the council and call for nominations to the council from qualified industry organizations. All persons voting in the referendum shall certify to the director the number of gallons represented by their vote.
2. [On the director's own initiative,] Upon petition of the council or of producers and marketers representing thirty-five percent of the gallons in each class, the director shall hold a referendum to determine whether the industry favors termination or suspension of the order. The termination or suspension shall not take effect unless it is approved by those persons representing more than one-half of the total gallonage of odorized propane in the marketer class and one-half of all propane in the producer class.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 3. The director may require such reports or documentation as is necessary to document
17 the referendum process [and the nomination process for members of the council] and shall
18 protect the confidentiality of all such documentation provided by industry members. Information
19 regarding propane produced or marketed by persons voting shall be a closed record.

 414.560. 1. Upon issuance of an order by the director establishing the Missouri propane
2 education and research council, the director shall select all members of the council from a list
3 of nominees submitted by qualified industry organizations. **Subsequent appointments shall**
4 **be selected by the council following a public nomination process.** Vacancies in unfinished
5 terms of council members may be filled by the council[, subject to approval of the director].

6 2. In making nominations and appointments to the council, the qualified industry
7 organizations [and the director] shall give due regard to selecting a council that is representative
8 of the industry, and the geographic regions of the state.

9 3. The council shall consist of fifteen members, with nine members representing retail
10 marketers of propane; three members representing wholesalers or resellers of propane; two
11 members representing manufacturers and distributors of gas use equipment, wholesalers or
12 resellers, or transporters; and one public member. Other than the public member, council
13 members shall be full-time employees or owners of businesses in the industry.

14 4. Council members shall receive no compensation for their services, but shall be
15 reimbursed for reasonable expenses incurred in the performance of their duties.

16 5. Council members shall serve terms of three years; except that of the initial members
17 appointed, five shall be appointed for terms of one year, five shall be appointed for terms of two
18 years and five shall be appointed for terms of three years. Members may be appointed to a
19 maximum of two consecutive full terms. Members filling unexpired terms will not have any
20 partial term of service count against the two-term limitation. Former members of the council
21 may be reappointed to the council if they have not been members for a period of one year.

22 6. The council shall select from among its members a chairman and other officers as
23 necessary, establish committees and subcommittees of the council, and adopt rules and bylaws
24 for the conduct of business. The council may establish advisory committees of persons other
25 than council members.

26 7. The council may employ a president to serve as chief executive officer and such other
27 employees as it deems necessary. The council may enter into contracts with, use facilities and
28 equipment of, or employ personnel of a qualified industry organization in carrying out its
29 responsibilities under sections 414.500 to 414.590. It shall determine the compensation and
30 duties of each, and protect the handling of council funds through fidelity bonds.

31 8. At **least thirty days prior to** the beginning of each fiscal period, the council shall
32 prepare and submit [to the director] **for public comment** a budget plan including the probable

33 costs of all programs, projects and contracts and a recommended rate of assessment sufficient
34 to cover such costs. [The director shall approve or recommend changes to the budget after an
35 opportunity for public comment.] **The council shall approve or modify the budget following**
36 **the public comment period.**

37 9. The council shall develop programs and projects and enter into contracts or
38 agreements for implementing the policy of sections 414.500 to 414.590, including programs of
39 research, development, education, and marketing, and for the payment of the costs thereof with
40 funds collected pursuant to sections 414.500 to 414.590. The council shall coordinate its
41 activities with industry trade associations to provide efficient delivery of services and to avoid
42 unnecessary duplication of activities.

43 10. The council shall keep minutes, books, **and** records that clearly reflect all of the acts
44 and transactions of the council and regularly report such information to the director[, along with
45 such other information as the director may require]. The books of the council shall be audited
46 by a certified public accountant at least once each fiscal year and at such other times as the
47 council may designate. Copies of such audit shall be provided to the director, all members of
48 the council, all qualified industry organizations, and to other members of the industry upon
49 request. [The director shall receive notice of meetings and may require reports on the activities
50 of the council, as well as reports on compliance, violations and complaints regarding the
51 implementation of sections 414.500 to 414.590.]

52 11. From assessments collected, the council shall annually reimburse the director for
53 costs incurred in holding the referendum establishing the council[, making appointments to the
54 council,] and other expenses directly related to the council.

414.570. 1. The council shall set the initial assessment at no greater than one-tenth of
2 one cent per gallon. Thereafter, annual assessments shall be sufficient to cover the costs of the
3 plans and programs developed by the council and approved [by the director] **following public**
4 **comment**. The assessment shall not be greater than one-half cent per gallon of odorized
5 propane. The assessment may not be raised by more than one-tenth of one cent per gallon
6 annually.

7 2. The owner of propane immediately prior to odorization in this state or the owner at
8 the time of import into this state of odorized propane shall be responsible for the payment of the
9 assessment on the volume of propane at the time of import or odorization, whichever is later.
10 Assessments shall be remitted to the council on a monthly basis by the twenty-fifth of the month
11 following the month of collection. Nonodorized propane shall not be subject to assessment until
12 odorized.

13 3. The [director] **council** may [by regulation, with the concurrence of the council,]
14 establish an alternative means [for the council] to collect the assessment if another means is

15 found to be more efficient and effective. The [director] **council** may [by regulation] establish
16 a late payment charge and rate of interest **not to exceed the legal rate for judgments** to be
17 imposed on any person who fails to remit to the council any amount due under sections 414.500
18 to 414.590.

19 4. Pending disbursement pursuant to a program, plan or project, the council may invest
20 funds collected through assessments and any other funds received by the council only in
21 obligations of the United States or any agency thereof, in general obligations of any state or any
22 political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank
23 that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal
24 and interest by the United States.

25 [5. The National Propane Education and Research Council, in conjunction with the
26 United States Secretary of Energy may, by regulation, establish a program coordinating the
27 operation of its council with the council established in section 414.530. This may include an
28 assessment rebate, if adopted, of an amount up to twenty-five percent of the National Propane
29 Education and Research Council assessment collected on Missouri distributed odorized propane
30 as presented and described in section nine of the federal Propane Education and Research Act
31 of 1992. Should the National Propane Education and Research Council, as part of the federal
32 Propane Education and Research Act of 1992, establish such an assessment rebate on fees
33 collected by such council, then all funds from such federal assessment rebate shall be the
34 property of the Missouri council as established by section 414.530, and the use of such funds
35 shall be determined by the Missouri council for the purposes as intended and presented in
36 sections 414.500 to 414.590.]

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